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NYC CORRECTIVE CHIROPRACTIC CARE, P.C.

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF NEW YORK

**NYC CORRECTIVE CHIROPRACTIC
CARE, P.C. A/S/O JAMES BIEBER**

Plaintiff

v.

**UNITEDHEALTHCARE OF NEW
YORK, INC.**

Defendant.

Civil Action No.:

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff, NYC CORRECTIVE CHIROPRACTIC CARE, P.C. ("Plaintiff" or Corrective") as assignee and legal representative of JAMES BIEBER ("Bieber") by and through its attorneys, Santarcangelo Law, L.L.C., by way of Complaint against Defendant UNITEDHEALTHCARE OF NEW YORK, INC. ("United Healthcare") hereby alleges upon knowledge as to the corporation and its own acts, and upon information and belief as to all other matters, based upon, *inter alia*, the investigation made by and through his attorneys, as follows:

PARTIES

- 1) Bieber's employer maintains an "Employee Health Benefit Plan" (the "Plan") as defined in 29 U.S.C. § 1002 (1).
- 2) Plaintiff, NYC Corrective Chiropractic Care, P.C. is a Professional Corporation registered in the State of New York with a principal place of business at 280 Madison Avenue, Suite 1211, New York, NY 10016.
- 3) Defendant United Healthcare serves as third-party administrator of the Plan and/or provides health insurance to beneficiaries and participants of the Plan. Upon information

and belief, United Healthcare of New York has a principal place of business in New York located at 77 Water St. 14th/15th Floor, New York, New York, 10005. United Healthcare has a registered agent of CT Corporation System, 111 Eighth Avenue, New York, New York, 10011.

- 4) Bieber is a “participant” under the plan as defined by 29 U.S.C. §1002 (7) and a “beneficiary” under the Plan as defined by 29 U.S.C. §1002 (8).

JURISDICTION AND VENUE

- 5) United Healthcare’s actions in administering the Plan are governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 to 1461 (“ERISA”). This Court, has subject matter jurisdiction over ERISA claims stated herein under 28 U.S.C. §1331 and 29 U.S.C. § 1132(e).
- 6) Venue is appropriate in this District under 28 U.S.C. §1391, and 29 U.S.C. §1332(e)(2) because: (i) United Healthcare resides, is found, has an agent, and transacts business in this District; (ii) United Healthcare conducts a substantial amount of business in this District; and (iii) United Healthcare insures and/or administers the Plan in this District.

STANDING

- 7) As a participant of the Plan as that term is defined in 29 U.S.C. §1002(7) and a beneficiary of the Plan as that term is defined in 29 U.S.C. §1002(8), Bieber has standing to bring this action under 29 U.S.C. §1132(a)(1)(B).
- 8) By and through Bieber’s execution of a Power of Attorney, Corrective is an “authorized representative” of Bieber and therefore may bring this action on behalf of Bieber under 29 U.S.C. §1132 (a)(1)(B). The assignment of benefits is attached as Exhibit 1 and is incorporated by reference.

FACTS COMMON TO ALL COUNTS

- 9) At all times relevant hereto, Bieber was both a participant and a beneficiary under the Plan, United Healthcare Insured No. 956461273.
- 10) At all times relevant hereto, NYC Corrective Chiropractic Care, P.C. (EIN No. 27-4578663) a domestic professional corporation operated in compliance with New York Law.
- 11) At all times relevant hereto, under the terms and conditions of the Plan, Bieber was entitled to receive, *inter alia*, benefits for outpatient chiropractic care.
- 12) Bieber underwent outpatient chiropractic care performed by Corrective from September 26, 2014 through November 20, 2014.
- 13) Corrective timely submitted claims for reimbursement totaling at least \$2,400.00 to United Healthcare with respect to professional services rendered by Corrective to Bieber (“professional fees”) utilizing a CMS-1500 Health Insurance Claim Form.

- 14) United Healthcare paid all or part of the claims for reimbursement with respect to professional fees for services performed by Corrective to Bieber.
- 15) United Healthcare denied a majority of the claims for reimbursement with respect to the professional fees for services provided by Corrective to Bieber.
- 16) United Healthcare's stated reason for denying payment to Corrective for professional services provided by Corrective to Bieber is that the information provided does not support medical necessity.
- 17) By making partial payments during the relevant period United Healthcare acknowledges the medical necessity of the chiropractic care rendered to Bieber by Corrective.
- 18) United Healthcare is responsible under the Plan for the necessary medical care rendered to Bieber by Corrective.
- 19) To date, United Healthcare has not provided an adequate response to Corrective's attempts to appeal the professional fee claim denials in issue, on behalf of Bieber.
- 20) Corrective a/a/o Bieber has exhausted all internal remedies.
- 21) Any administrative remedies that may be required to be pursued under ERISA have been exhausted, should be deemed exhausted under applicable regulations, or would be futile under the circumstances, and are therefore excused.
- 22) Because United Healthcare failed to pay the fee claims complained of herein within the time frames set forth in 29 C.F.R. §2560.503-1, Corrective is permitted to immediately pursue remedies available under 29 U.S.C. §1132 on behalf of Bieber.

FIRST COUNT

- 23) Plaintiff repeats, re-alleges and incorporates the allegations of all prior paragraphs as if set forth at length herein.
- 24) By failing to pay benefits to Bieber and/or Corrective for professional services provided by Corrective to Bieber, United Healthcare violated its duties and obligations under the Plan.
- 25) Because Bieber was a participant and beneficiary of the Plan, and because Corrective is the authorized representative of Bieber, Corrective has standing to bring this cause of action under 29 U.S.C. §1132(a)(1)(B) to enforce rights created by the Plan and to seek benefits relating to services rendered by Corrective.

Wherefore, Plaintiff Corrective, as the authorized representative of Bieber, demands judgment against Defendant United Healthcare, as follows:

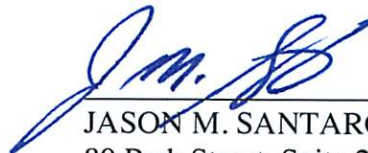
- A) Declaring that Defendant United Healthcare violated its duties and obligations under the Plan by failing to pay benefits relating to professional services Bieber received at Corrective;

- B) Directing Defendant United Healthcare to pay benefits to Corrective relating to professional services Bieber received at Corrective;
- C) Statutory attorneys fees;
- D) Costs of suit; and
- E) Such other and further relief as the Court may deem equitable and just.

FIRST COUNT

Pursuant to FRCP 38(b), plaintiff demands a trial by jury as to all issues so triable.

Respectfully Submitted,
SANTARCANGELO LAW, L.LC

A handwritten signature in blue ink, appearing to read "J.M. Santarcangelo", is written over a horizontal line.

JASON M. SANTARCANGELO, ESQ.
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Attorney for Plaintiff

Date: February 27, 2015